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AUSTIN TX 78731

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**APR 20 2006**

**OFFICE OF PETITIONS**

In re Application	:
Alamouti, et al.	:
Application No. 09/594,467	: DECISION ON APPLICATION
Filed: June 14, 2000	: FOR PATENT TERM ADJUSTMENT
Atty Docket No. ATTW01-00047	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)", filed February 16, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eight hundred thirty-one (831) days to one thousand, one hundred sixty-seven (1167) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one thousand, one hundred sixty-seven (1167) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 17, 2005, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is eight hundred thirty-one (831) days.

On February 16, 2006, Applicants timely<sup>1</sup> submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one thousand, one hundred sixty-seven (1167) days.

Applicants assert entitlement to a patent term adjustment of one thousand, one hundred sixty-seven (1167) days on the basis that the PTO improperly assessed Applicants a delay of one hundred sixty-nine (169) days for responding to a December 17, 2003 Office action on September 2, 2004. Applicants assert that they filed a complete response on March 18, 2004, and as such should only have been assessed delay of one (1) day.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of eight hundred thirty-one (831) days based on an adjustment for PTO delay of eight hundred fifty-five (855) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1) and one hundred fifty (150) days pursuant to 35 U.S.C. 154(b)(1)(A)(ii) and 37 C.F.R. §1.703(a)(2), reduced by Applicants' delays of one hundred sixty-nine (169) days and five (5) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. §1.704(b). The adjustments of one hundred sixty-nine (169) days and one hundred fifty (150) days are at issue.

The adjustment of one hundred sixty-nine (169) days has been found to be incorrect. A review of the application file reveals that the Office mailed a non-final Office action on December 17, 2003. Applicants filed a response on March 18, 2004. As this was not timely pursuant to 37 C.F.R. § 1.704(b), applicant delay of one (1) day should have been assessed, not one hundred sixty-nine (169) days.

In addition, as applicants filed their response on March 18, 2004, the Office should have been assessed additional delay for not mailing a reply until June 1, 2005. The Office should have been assessed delay PTO delay of three hundred eighteen (318) days, not one hundred fifty (150) days.

In view thereof, the correct determination of patent term

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<sup>1</sup> Applicants filed the application for patent term adjustment together with the payment of the issue fee.

adjustment at the time of the mailing of the Notice of Allowance is **one thousand, one hundred sixty-seven (1167) days** (1173 (855+318) days of PTO delay, reduced by 6 (5+1) days of applicant delay).

Receipt of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

The application is being forwarded to the Office of Patent Publications for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Kery Fries  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of Revised PAIR Screen

Day : Wednesday

**PALM INTRANET**

Date: 4/19/2006

Time: 11:25:32

**PTA Calculations for Application: 09/594467**

Application Filing Date:	06/14/2000	PTO Delay (PTO):	1005
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	174
Post-Issue Petitions:	0	Total PTA (days):	1167
PTO Delay Adjustment:	336		

**File Contents History**

Number	Date	Contents Description	PTO	APPL	START
57	04/19/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		150	
56	04/19/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		1	
55	04/19/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	487		
41	11/17/2005	MAIL NOTICE OF ALLOWANCE			
40	11/17/2005	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
39	11/17/2005	MAIL EXAMINER'S AMENDMENT			
38	11/14/2005	ISSUE REVISION COMPLETED			
37	11/14/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	11/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
35	11/09/2005	EXAMINER'S AMENDMENT COMMUNICATION			
34	11/09/2005	NOTICE OF ALLOWABILITY			
33	11/01/2005	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
32	09/13/2005	DATE FORWARDED TO EXAMINER			
31	09/06/2005	RESPONSE AFTER NON-FINAL ACTION		5	30
30	06/01/2005	MAIL NON-FINAL REJECTION	150		26
29	05/31/2005	NON-FINAL REJECTION			
28	03/23/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
27	03/23/2005	DATE FORWARDED TO EXAMINER			
26	09/02/2004	RESPONSE AFTER NON-FINAL ACTION		169	18
25	03/23/2005	CORRESPONDENCE ADDRESS CHANGE			
24	03/24/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
23	05/08/2002	REFERENCE CAPTURE ON IDS			

22	03/01/2001	REFERENCE CAPTURE ON IDS			
21	11/27/2000	REFERENCE CAPTURE ON IDS			
20	06/14/2000	REFERENCE CAPTURE ON IDS			
19	09/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
18	12/17/2003	MAIL NON-FINAL REJECTION	855		-1
17	12/15/2003	NON-FINAL REJECTION			
16	07/08/2003	CASE DOCKETED TO EXAMINER IN GAU			
15	05/08/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/12/2002	CASE DOCKETED TO EXAMINER IN GAU			
13	01/28/2002	CORRESPONDENCE ADDRESS CHANGE			
12	01/28/2002	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
11	03/01/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	11/27/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	07/24/2000	NEW OR ADDITIONAL DRAWING FILED			
8	06/14/2000	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	03/14/2001	CASE DOCKETED TO EXAMINER IN GAU			
6	12/10/2000	APPLICATION DISPATCHED FROM OIPE			
5	12/10/2000	APPLICATION IS NOW COMPLETE			
4	08/14/2000	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	08/11/2000	CORRESPONDENCE ADDRESS CHANGE			
2	07/05/2000	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	06/14/2000	INITIAL EXAM TEAM NN			

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### EXPLANATION OF PTA CALCULATION

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